FDA: Stop Selling Nicotine Liquid In Juice Boxes And Whipped Cream Canisters

By ACSH Staff — May 1, 2018

After cracking down on deceptive marketing by some nicotine liquid companies last week, the FDA has gone after the most egregious violators of common sense, who are clearly targeting children. To name and shame the bad actors who are doing a great harm to legitimate harm reduction and smoking cessation efforts, they are listed below. One snippet of a warning letter is also included below.

**Candy King Batch/Candy King Sour Worms**

- [Drip More, LLC](#)
- [On Cloud Vape](#)

**V'Nilla Cookies & Milk**

- [Tinted Brew, Inc.](#)
- [Fog It Up](#)
WARNING LETTER

Dear Ali Esmaili and Jameson Rodgers:

This is to advise you that the Center for Tobacco Products of the U.S. Food and Drug Administration (FDA) and the U.S. Federal Trade Commission (FTC) recently reviewed the website http://www.madhatterjuice.com from which you take orders for the One Mad Hit Juice Box, a juice box style product, and found that it is subject to the FDA’s regulatory enforcement actions. The product is being marketed for use with electronic cigarettes (e-cigarettes) and other similar tobacco products.

This marketing was deemed to be deceptive, unassembled, and incomplete, and did not contain any health message. It was also deemed to be misleading and thus served as a false or fraudulent representation. Under the Federal Food, Drug, and Cosmetic Act and the NJETTA Amendments of 2009, it is illegal to market such products as a tobacco product.

This failure to comply is in violation of section 907(a)(8) of the act. The FDA and FTC will take appropriate enforcement action, including, but not limited to, cease and desist orders and warning letters, as provided for in the Regulatory Flexibility Act. In addition, the FDA has the authority to refuse to issue, revoke, or not grant renewal of a license for an online platform engaged in the marketing of tobacco products, as provided for in the act.

Please ensure that you cease these activities immediately. If you have any questions, please contact the Office of Compliance and Policy Development at 301-594-8869.

Sincerely,

Ali Esmaili and Jameson Rodgers

NEwhere Inc. d/b/a Mad Hatter Juice

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Box e-liquid product. FDA has determined that the e-liquid products listed there are manufactured and offered for sale or distribution to customers in the United States. Under section 201(rr) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. § 321(rr)), as amended by the Family Smoking Prevention and Tobacco Control Act, these products are tobacco products because they are made or derived from tobacco and intended for human consumption. Certain tobacco products, including e-liquids, are subject to FDA jurisdiction under section 901(b) of the FD&C Act (21 U.S.C. § 387a(b)). In addition, the FTC has reviewed your marketing for One Mad Hit Juice Box e-liquid under Section 5 of the FTC Act, 15 U.S.C. § 45(a).

**FD&C Act Misbranding Violation**

FDA has determined that your One Mad Hit Juice Box e-liquid is misbranded under section 903(a)(1) of the FD&C Act (21 U.S.C. § 387c(a)(1)) and/or section 903(a)(7)(A) of the FD&C Act (21 U.S.C. § 387c(a)(7)(A)) because its labeling and/or advertising is false or misleading. FDA’s investigation of the website [http://www.madhatterjuice.com](http://www.madhatterjuice.com) revealed that it sells or distributes One Mad Hit Juice Box e-liquid with labeling and/or advertising that causes it to imitate a food or beverage, particularly one that is marketed toward, and/or appealing to, children (see Exhibit A). Specifically, the labeling and/or advertising of the product looks very similar to the labeling and/or advertising for juice boxes that are commonly marketed toward children (see Exhibit B). For example, the labeling and/or advertising for One Mad Hit Juice Box e-liquid includes statements and representations, such as “Juice Box,” “juicy apple juice,” “A Juicebox a Day Keeps the Doctor Away,” “Serving Size 1 bottle,” and “real red apples,” as well as a label on the back that is substantially similar to a food Nutrition Facts label. In addition, the labeling and/or advertising of One Mad Hit Juice Box e-liquid includes: the appearance of folded over and sealed top corners of the product’s packaging that is substantially similar to the aseptic, shelf-stable packages in which juice boxes are sold; an image of a straw wrapped in clear plastic affixed to the side of the packaging; images of apples and apple trees; and a color scheme that is substantially similar to the juice boxes in Exhibit B. Further, One Mad Hit Juice Box e-liquid has a strong scent like apple juice. This labeling and/or advertising causes the product to imitate a food or beverage, particularly one that is marketed toward, and/or appealing to, children and is therefore misleading.

**Whip’d Strawberry**

- Cosmic Fog Vapors d/b/a Next Day Vapor Products [14]
- Elite Vaporworks [15]

**Twirly Pop**

- Omnia E-Liquid [16]
Vape Heads Sour Smurf Sauce

- Warrender Enterprise Inc. d/b/a Lifted Liquids and E-Liquid Retail [17]
- Ultimate Vape Deals [18]

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Links
[10] mailto:info@MadHatterJuice.com
[11] mailto:ali@newhere.com
[12] mailto:jesemon@newhere.com
[16] https://www.fda.gov/ICECI/EnforcementActions/WarningLetters/ucm605893.htm
[18] https://www.fda.gov/ICECI/EnforcementActions/WarningLetters/ucm605895.htm